

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KIRK WILLIAMS,

Petitioner,

Case No. C18-1012-RSL-JPD

V.

JAMES KEY,

Respondent.

ORDER DENYING PETITIONER'S
MOTION FOR LEAVE TO CONDUCT
DISCOVERY

This is a federal habeas action filed under 28 U.S.C. § 2254. This matter comes before the Court at the present time on petitioner's motion for leave to conduct discovery. Respondent opposes petitioner's motion. The Court, having reviewed petitioner's motion, and the balance of the record, hereby ORDERS as follows:

(1) Petitioner's motion for leave to conduct discovery (Dkt. 22) is DENIED.

20 Petitioner asserts in his motion that he has been attempting for several years to obtain his public
21 defender's client file and the prosecutor's file related to the convictions he is seeking to
22 challenge in this action, and that he has been unlawfully denied access to these files. Petitioner

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1 speculates that these files will demonstrate that his trial counsel and the prosecutor worked
2 together to obtain his conviction, thereby violating his constitutional right to receive a fair trial.

3 The Supreme Court has made clear that “[a] habeas petitioner, unlike the usual civil
4 litigant in federal court, is not entitled to discovery as a matter of ordinary course.” *Bracy v.*
5 *Gramley*, 520 U.S. 899, 904 (1997). Rather, discovery is available in § 2254 proceedings only in
6 the discretion of the court and for good cause shown. *See Rule 6(a), Rules Governing Section*
7 *2254 Proceedings in the United States District Courts.*

8 In addition, in a federal habeas proceeding, the Court’s review is limited to the record
9 before the state courts when the state courts adjudicated the claims. 28 U.S.C. § 2254(d); *Cullen*
10 *v. Pinholster*, 563 U.S. 170, 181-82 (2011). In *Cullen*, the Supreme Court made clear that
11 “evidence introduced in federal court has no bearing on § 2254(d)(1) review. If a claim has been
12 adjudicated on the merits by a state court, a federal habeas petitioner must overcome the
13 limitation of § 2254(d)(1) on the record that was before that state court.” *Id.* at 185. Under this
14 limited scope of review, the Court may not consider new evidence not presented to the state
15 courts.

16 Petitioner’s conclusory assertion that the requested files will show that his trial counsel
17 and the prosecutor conspired to obtain his conviction is insufficient to demonstrate an
18 entitlement to discovery. Petitioner sets forth no clear and specific facts in his motion
19 demonstrating that discovery is either necessary or appropriate to resolve the procedural issues
20 and/or substantive claims now before the Court, and his request for leave to conduct discovery
21 must therefore be denied.

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1 (2) The Clerk is directed to send copies of this Order to petitioner, to counsel for
2 respondent, and to the Honorable Robert S. Lasnik.

3 DATED this 27th day of February, 2019.

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5 
6 JAMES P. DONOHUE
7 United States Magistrate Judge